IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 6TH DECEMBER 2007 / 15TH AGRAHAYANA 1929

WP(C).No. 18939 of 2005(D)

AGAINST THE ORDER DATED 24/05/2005 IN EP 728 1998 IN OS.1063/1994 of II ADDL.SUB COURT,THRISSUR

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PETITIONER:

SAJI P.NATH,
PAMBUMKATTIL HOUSE, VIYYUR, TRICHUR DISTRICT.

BY ADV. SRI.BABU JOSEPH KURUVATHAZHA
SRI.K.I.SAGEER

RESPONDENT:

THE SOUTH INDIAN BANK LIMITED,
TRICHUR, REP. BY ITS BRANCH MANAGER.

BY ADV. SRI.K.PRABHAKARAN, SC,SOUTH INDIAN BANK

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:-

P1: True copy of the statement of account detailing the loan availed from the respondent by the late mother of the petitioner.

P1(a): True copy of the statement evidencing the remittance of Rs.50,000/- on 28-11-2002.

P1(b): True copy of the statement evidencing the remittance of Rs.30,000/- on 15-3-2004.

P2: True copy of the decree dtd. 16-7-96 in O.S.No.1063/94 of the learned Subordinate Judge's Court,Thrissur.

P3: True copy of the order dtd. 24-5-2005 in E.P.No.728/98 of the learned Subordinate Judge's Court, Thrissur.

P4: True copy of the sale notice dtd. 25-5-2005.

P5: True copy of the representation dtd. 20-6-2005 filed by the petitioner before the respondent.

PIUS C. KURIAKOSE, J.

W.P.(C) NO. 18939 of 2005

Dated this the 6th day of December , 2007

JUDGMENT

The counsel for the petitioner seeks time. However, on considering the grounds raised and the averments made in the writ petition, I am of the view that time need not be granted and the writ petition can be disposed of giving reasonable time to the petitioner to settle the liabilities which are due to the respondent bank. In fact on considering the averments in the writ petition, this court on 24.6.2005 became inclined to grant stay of Ext.P3 order only on condition that the petitioner pays a sum of Rs.1 Lakh directly to the respondent Bank. The counsel for the petitioner is not able to inform whether the condition has been complied with. I have reason to think that the condition has been complied with since it is seen that the order of stay has been extended from time to time and on 17.1.2006 after the Standing Counsel for the Bank entered appearance the said order has been extended until further orders. The petitioner's claim is that he has remitted total amount of Rs.2,21,000/-as evidenced by Exts.P1 and P1(b) and other documents. The petitioner would probably have paid a sum of Rs.3,01000/-.The ground No.D raised in the writ

petition is that Ext.P5 representation filed by the petitioner to the respondent Bank seeking one time settlement of the issue could be directed to be considered. It is also urged that the property which is ordered to be sold as per Ext.P3 order has considerable sentimental value to the petitioner because it was in that building that the petitioner mother breathed her last.

2. The Standing Counsel for the Bank is not available. I do not find any infirmity about Ext.P3 warranting correction by this court under Article 277. However, this writ petition will stand disposed of issuing the following directions:

The order of stay presently passed will continue till 31.3.2008. If the petitioner has actually paid a sum of Rs.1 Lakh pursuant to the condition imposed by this court in its interim order dated 24.6.2007, it is open to the petitioner to sort out the issues with the respondent Bank before 31.3.2008. If, Ext.P5 is pending before the Bank even now, the Bank will take a decision on Ext.P5 and communicate the same to the petitioner. At any rate order of stay will not continue beyond 31.3.2008.

PIUS C. KURIAKOSE,

JUDGE.

dpk